

1 **OPP**
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:
AVIS ELLIS

Debtor

Case No.: BK-S-09-27726-LBR
Chapter 13
(Conversion to Chapter 11 Pending)

**DEBTOR'S OPPOSITION TO
MOTION FOR RELIEF FROM
AUTOMATIC STAY**

Date: 1/15/10
Time: 10:30am

OPPOSITION TO MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW, the Debtor, AVIS ELLIS, (hereinafter "Debtor") by and through their attorney, RYAN ALEXANDER, ESQ., and respectfully requests this Court to deny the Motion For Relief From The Automatic Stay, filed by HSBC BANK USA, NATIONAL ASSOCIATION, (hereinafter "Movant" or "HSBC") by and through their attorney, GREGORY L. WILDE, ESQ. This Opposition is based upon the pleading and papers on file herein and the Memorandum of points and Authorities attached hereto and incorporated herein.

FACTS

On September 23, 2009, a Chapter 13 bankruptcy was filed on behalf of Debtors, with the 341 Hearing held with bankruptcy Trustee Kathleen Leavitt on or about November 16, 2009. The

1 Trustee objected to confirmation to the plan based on secured debt exceeding the limitations for
2 eligibility of a Chapter 13 bankruptcy; a motion was subsequently filed to convert this case to a
3 Chapter 11 bankruptcy, which has been noticed for February 25, 2010. Debtor has a tenant in the
4 property subject to this motion.

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6 **POINTS AND AUTHORITIES**

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8 **A. Debtor Has Moved To Convert This Case To Chapter 11**

9 Under 11 U.S.C. §1307(d), Debtor has moved to convert this case to a Chapter 11
10 bankruptcy and requests that the Court stay all Motions pending the conversion of the case and
11 submission of the Chapter 11 Plan.

12
13 **B. The New Chapter 11 Plan Will Provide For Deficiencies Listed By Creditor**

14 Debtor is currently composing a Plan for the Chapter 11 case that will provide
15 compensation for the \$7,661.98 listed by the Creditor as deficiency. Further, there is a renting
16 tenant to provide funds to pay the deficiency.

17 WHEREFORE, Debtors request that the Motion for Relief From Automatic Stay be denied.

18
19 Dated this 15th day of January 2010.

20 LAW OFFICE OF RYAN ALEXANDER PLLC

21 /s/Ryan Alexander

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RYAN ALEXANDER
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Attorney for Debtors

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is Law Offices of Ryan Alexander PLLC, 520 S. 4th St., Ste. 340, Las Vegas, Nevada 89101. On August 5, 2009 I served the within document(s):

OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY

X ECF System.

JEREMY T BERGSTROM on behalf of Creditor BAC HOME LOANS SERVICING, L.P.
FKA COUNTRYWIDE HOME LOANS SERVICING, L.P.
mbergstrom@mileslegal.com

KATHLEEN A. LEAVITT
courtsecf3@las13.com

CHRISTOPHER K LEZAK on behalf of Creditor OneWest Bank FSB, its assignees
and/or successors
clezak@mccarthyholthus.com

GREGORY L. WILDE on behalf of Creditor HSBC BANK USA, NA
bk@wildelaw.com

JAMES H. WOODALL on behalf of Creditor HSBC BANK USA, NA
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LES ALLEN ZIEVE on behalf of Creditor Ocwen Loan Servicing, LLC
jsimpkins@zievelaw.com

- ☐ FACSIMILE - by transmitting via facsimile the document(s) listed above to the fax number(s) set forth on the attached Telecommunications Cover Page(s) on this date before 5:00 p.m.
- X MAIL - by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☐ PERSONAL SERVICE - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ OVERNIGHT COURIER - by placing the document(s) listed above in a sealed envelope with shipping prepaid, and depositing in a collection box for next day delivery to the person(s) at the address(es) set forth below via UNITED PARCEL SERVICE.

BAC Home Loans Servicing, LP
c/o Polk, Prober & Raphael, a Law Corp.
20750 Ventura Blvd., #100
Woodland Hills, CA 91364

1 I declare under penalty of perjury under the laws of the State of Nevada that the above is
2 true and correct. Executed on January 15, 2010 at Las Vegas, Nevada.

3 /s/Ryan Alexander

4 _____
5 Ryan Alexander, Esq.
6 *Attorney for Debtor*
7 *AVIS ELLIS*
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